

## **REMARKS**

Applicant respectfully requests reconsideration of this application in light of the foregoing amendments and the subsequent remarks.

### **Claims Status**

Claims 1, 19 and 23 have been amended. Claims 3, 6-18 and 27-29 have been cancelled, without prejudice. New claims 30-32 have been added. Therefore, claims 1-2, 4-5 and 19-26 and 30-32 remain pending for examination.

### **Specification**

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter of claims 27-29.

Claims 27-29 have been cancelled, without prejudice. Therefore, Applicants contend that this rejection of claims 27-29 is moot.

### **35 U.S.C. § 112 Rejection**

Claim 29 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 29 has been cancelled, without prejudice. Therefore, Applicants contend that this rejection of claim 29 is moot.

### **35 U.S.C. § 103 Rejection**

Claims 1-2, 4-5 and 19-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bailey, et al. (“*Bailey*”), U.S. Patent No. 6,185,623, further in view of Riedle (“*Riedle*”), U.S. Patent 6,983,334.

Applicants continue to disagree with the Examiner's characterization of the references and the pending claims and maintain their previous arguments. Nevertheless, for the sake of expediting issuance of this matter, Applicants propose new amendments to the claims. Claim 1, as amended, now recites in pertinent part "one or more passive devices of the plurality of passive devices joining the first set after the initiation of the downloading session receive missing packets via their retransmission to the active device, and wherein packet loss is uniformly distributed between the active device and the first set of the plurality of devices joining the downloading session at the same time". (emphasis added).

*Bailey* discloses "[b]ooting diskless workstations by subnet broadcasting load programs to all network stations that join in subnet broadcast file group". (*Bailey*, abstract). The Examiner acknowledges the deficiencies of *Bailey*, but relies on *Riedle* for the alleged support. (see *office action*, mailed 11/09/10, pg. 4). *Riedle* discloses tracking missing packets and further discloses "when the client is determining *which packet(s) or groups to re-request*, the client checks the array for holes (i.e., 0's) and re-requests the packet(s) represented by each hole found." (*Riedle*, abstract). *Riedle* relates to determining which packets to re-request and then re-requesting those packets. Applicants contend that *Bailey* and *Riedle*, neither individually nor combined, teach or reasonably suggest "one or more passive devices of the plurality of passive devices joining the first set after the initiation of the downloading session receive missing packets via their retransmission to the active device, and wherein packet loss is uniformly distributed between the active device and the first set of the plurality of devices joining the downloading session at the same time" as recited by claim 1. (emphasis added).

Accordingly, for at least the reasons set forth above with respect to claim 1,

Applicants respectfully request the withdrawal of the rejection of claim 1 and its dependent claims.

Claims 19 and 23 contain limitations similar to those of claim 1. Accordingly, for at least the reasons set forth above with respect to claim 1, Applicants respectfully request the withdrawal of the rejection of claims 19 and 23 and their dependent claims.

### **Conclusion**

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

**Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

**Request for an Extension of Time**

Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

**Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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